

**CITY OF COPPERAS COVE
CITY COUNCIL REGULAR MEETING MINUTES
MAY 18, 2004 - 7:00 P.M.**

A. CALL TO ORDER

Mayor, Bradi D. Diaz called the regular meeting of the City Council of the City of Copperas Cove, Texas to order at 7:03 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Owsley gave the Invocation, and led the Pledge of Allegiance.

C. ROLL CALL

ALSO PRESENT

Bob Reeves
Ray Don Clayton
John Gallen
Charlotte Heinze
Fred Harris
Bud Owsley
Annabelle Smith

Steven J. Alexander, City Manager
Pamela J. Russell, City Secretary
James R. Thompson, City Attorney

D. ANNOUNCEMENTS

Council Member Smith

- A huge thank you for the 100's of Volunteer hours at the Rabbit Fest. Thank you to everyone who attended the Rabbit Fest.

Council Member Gallen

- Thank you to the voters who took the time to come out to vote here at City Hall.
- A Challenge to Community – Project Graduation, please donate time, or money for this worthy endeavor.

Mayor Diaz

- A Special City Council Meeting will be held on Tuesday, May 25, 2004 at 6:00 p.m. to officially canvass the results of the General Election, which was held on May 15, 2004.

The **unofficial** canvass states the following results:

Position Three

| | |
|----------------------|-----------|
| John Gallen | 661 votes |
| Roger "Odie" O'Dwyer | 186 votes |

Position Four

| | |
|----------------|-----------|
| James Stockman | 474 votes |
| Jim Kanzenbach | 436 votes |

Position Five

| | |
|-----------------|-----------|
| Buddy Southards | 181 votes |
| Charlie Youngs | 281 votes |
| R.Ray Gatewood | 290 votes |
| Jean Durham | 158 votes |

- Early Voting for the June 19, 2004, City of Copperas Cove, Runoff Election will be held Thursday, June 10 through Wednesday, June 16, 2004. 8 a.m. thru 5 p.m. with the exception of the weekend days. Election Day is Saturday, June 19, 2004, 7 a.m. thru 7 p.m. The Runoff Election is to elect Council Member Position Five. The two candidates for the Runoff election are R. Ray Gatewood and Charlie Youngs. All voting for this election will take place at City Hall. The Civic Center will not be used as a polling place this year. For more information on the Runoff Election contact City Secretary, Pamela Russell.
- Congratulations to City Secretary, Pam Russell for attaining the International Certified Municipal Clerk designation.

E. PUBLIC RECOGNITION

1. Proclamation – “World War II Veteran’s Appreciation Day”. **Bradi D. Diaz, Mayor**

Mayor Diaz read the proclamation and presented it to Mr. Milburn Locke, Committee Chairperson and Kelly Dix. Mr. Milburn said that the May 29, 2004, World War II Veteran’s Appreciation Day Celebration a “Tribute to a Generation” will be held at the Gatesville High School 9:00 a.m. until 1:00 p.m., and invited everyone to attend the event.

2. Proclamation – “Lions White Cane Days”. **Bradi D. Diaz, Mayor**

Mayor Diaz read the proclamation and presented it to The Copperas Cove Lions Club President, Kathi Mitchell, and Harris Caraway. Ms. Mitchell thanked the Mayor and City Council for the recognition. Ms. Mitchell stated: Since 1974 the Lions eye bank of Central Texas has provided the gift of sight through the management of donor services for 36 Central Texas Counties. In conjunction with area hospitals and other transplant agencies, the eye bank is able to fulfill the wishes of donor families.

3. Proclamation – “Law Enforcement Torch Run Day for Special Olympics Texas”. **Bradi D. Diaz, Mayor**

Mayor Diaz read the proclamation and presented it to Lt. Austin, Copperas Cove Police Department. Lt. Austin thanked the Mayor and City Council for the recognition of this event. Lt. Austin gave an overview of the Torch Run program, and noted that the Copperas Cove Police Department donates a lot of volunteer time to this program.

4. Recognition of Task Force Ironhorse Volunteers. **Bradi D. Diaz, Mayor**

Mayor Diaz stated: On April 22, 2004 the 4th Infantry Division and Task Force Ironhorse hosted a Welcome Home Celebration for soldiers returning from Iraq. The Mission for this Tribute to our Heroes was to provide a fun day of food, carnival rides and top

entertainment to the soldiers who have deployed, their family members who endured their absence and the community who supported them. The Mayor's Task Force of which Copperas Cove is a member was asked to help with this event. Specifically to help underwrite the cost of entertainment and carnival, as well as, provide volunteers. The participating Cities of the Mayor's Task Force were provided with advertising opportunities and a community booth to showcase our City at the event. This evening I would like to recognize some of the volunteers and community booth participants who answered my call for help. It was my goal that Copperas Cove be well represented in this opportunity to say thank you to those who have been fighting this global war on terrorism. And those individuals here tonight helped Copperas Cove to meet and exceed my goal.

Mayor Diaz presented the certificates of recognition and appreciation to many volunteers and organizations, who had volunteered with this program. Special recognition was given with floral bouquets and was presented to Amy Anderson, Monica Hull and Kelly Dix.

Mayor Diaz presented a framed certificate to Steven Alexander, City Manager, that she had received from MG. Odierno, Commanding General of Task Force Ironhorse thanking the City for its participation and overwhelming support of the April 22, 2004 Task Force Ironhorse Welcome Home Celebration.

5. Recognition of the Copperas Cove Rotary Club. ***Bradi D. Diaz, Mayor***

Mayor Diaz stated: I would like to express appreciation to the Copperas Cove Rotary Club Members and Wal-Mart for helping to enhance our City by building a pavilion at City Park, projects like these initiated by civic clubs proves the spirit of volunteerism in our City is alive and well. On behalf of the City Council and me; this certificate of appreciation is only a small token of our gratitude to the Copperas Cove Rotary Club members for providing this needed structure in our City Park. Thank you. Mayor Diaz then presented the certificates of appreciation.

F. CITIZENS' FORUM citizens are allowed to speak on any matter other than personnel matters, matters under litigation, or matters on the regular agenda, for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

Desirae Clark - 701 Cedar Park – Ms. Clark stated she was concerned about potential alcohol sales. Ms. Clark said she was opposed to the sale of alcohol in our City, and wants the City to remain without alcohol sales. Ms. Clark suggested the City find a more creative way to generate revenue rather than from the sale of alcohol. Ms. Clark also expressed concerns of “hidden involvement” by City Council Members in pursuing an alcohol election.

Pamela Bond – 204 Allen Street - Ms. Bond stated concern for the low voter turn out in the General Election, and offered to register citizens to vote. Ms. Bond also stated that she did not vote in the May 15, 2004 General Election.

G. CONSENT ITEMS

1. Consideration and action on approval of minutes from May 4, 2004 Regular City Council Meeting. ***Pamela J. Russell, City Secretary***

2. Consideration and action on Resolution No. 2004-12, authorizing the submission of a grant application to Texas STEP for a grant enabling the City of Copperas Cove Police Department to reduce the use and distribution of tobacco products pertaining to minors. ***Lt. Danny Austin, Crime Prevention Officer***

3. Consideration and action on Resolution No. 2004-13 authorizing the City Manager to apply for, reject, alter or terminate a grant from the Federal Emergency Management Agency, Texas Association of Regional Councils, for a Community Emergency Response Team (CERT) grant in the approximate amount of \$15,000. ***Jeri Denniston, Grants Administrator/Budget Analyst***

Council Member Gallen made a motion to approve consent items G-1, G-2, and G-3. Council Member Smith seconded the motion and with a unanimous vote, motion carried.

The Resolution captions read as follows:

RESOLUTION NO. 2004-12

A RESOLUTION OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TEXAS STEP FOR A GRANT ENABLING THE CITY OF COPPERAS COVE POLICE DEPARTMENT TO REDUCE THE EXTENT TO WHICH CIGARETTES AND TOBACCO PRODUCTS ARE SOLD TO OR DISTRIBUTED TO MINORS.

RESOLUTION NO. 2004-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING THE CITY MANAGER TO APPLY FOR, ACCEPT, REJECT, ALTER OR TERMINATE A GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FOR ENHANCEMENT OF COMMUNITY EMERGENCY RESPONSE TEAMS (CERTs) THAT PROMOTE COMMUNITY PREPAREDNESS AND FAMILY SAFETY AND ENGAGE CITIZENS IN HOMELAND SECURITY ACTIVITIES.

H. PUBLIC HEARINGS/ACTION – None.

I. ACTION ITEMS

1. Consideration and action on Ordinance No. 2004-11 adopting a Smoking Ordinance. ***James R. Thompson, City Attorney***

Council Member Owsley made a motion to approve Ordinance No. 2004-11, adopting a Smoking Ordinance. Council member Smith seconded the motion.

Council Member, Bud Owsley read the following statement: We have sat through two public hearings and listened to individuals and a few restaurant owners state why the No Smoking Ordinance No. 2004-11 should not be passed. As a private citizen and an elected official second, I would offer the following comments for your consideration. First: I respect the right of every person in this chamber, but I would like to speak about my rights as a non-smoker, I stopped smoking over 50 years ago and have no regrets. Many have stated that they have served their country and have the right to smoke wherever they desire. I do not agree with that statement. I served my country for twenty-one years through two wars, Korea and Vietnam, and do not believe my country owes me anything. Second: As a non-smoker I have the right to speak in defense of a smoke free atmosphere when I dine at a local restaurant. As for myself, this is not about rights, but about the harmful effects of tobacco smoke on the health of our citizens, in public facilities. Third: As to restaurant owners stating that a non-smoking ordinance would reduce business. I operated a very large smoke free food establishment in Central Texas for 21 years and at no time did I hear a complaint from smokers who patronized the establishment. My clientele came from Fort Hood and through out Central Texas. Fourth: My point is simply that a non-smoking ordinance will not decrease business as some have stated. Fellow Council Members, you have received numerous researched documents written by well known professionals, as to the hazards of tobacco smoke on the general public. You have also received researched documents on the effects of second hand smoke and its effect on every man, woman, and child in America. Summary: Today this Council is at a cross roads. Over the past three years the citizens of Copperas Cove have enjoyed the benefits of a united council. Many projects have been completed, due to the hard work of council and staff. Much work lies ahead, in the area of annexation, budget preparation, ordinance review, industrial park completion and other projects in the completion stages and some in the planning stages. There are those who would like nothing better than to divide this council for their own personal satisfaction. I ask you this question, if you vote against the ordinance where will these same few be, when you have to deal with future controversial issues that they are opposed to? Yes, you will be in every letter to the editor in the newspapers serving Central Texas, plus the local TV news, yes you will be the council that is portrayed as following Nazism and depriving citizens of their constitutional rights. Fellow Council Members, I urge you to take a stand on behalf of the 79% of those citizens who appreciate all the hard work you have done by returning you to a second term in office, that is more than any other council in recent years. This did not happen because of your great personalities, it happened because you took a stand on difficult issues. Don't let a few negatively impact the accomplishments of this council. Thank you.

Council Member, Fred Harris said: There is a danger from cigarette smoke that we previously thought of as an annoyance. None of us have the right to put others lives in danger. Many of us have the luxury of working in a smoke free environment, but this is not the case for restaurant workers. To be called a Nazi or communist for being in favor of this ordinance is an attack on my Christianity. We are our brothers keeper.

Council Member, Ray Don Clayton read the following statement: I am not an advocate of frequent changes in law and constitutions but laws and constitutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened as new discoveries are made, new truths discovered and manners and opinions change. With the change of circumstances institutions must advance also to keep pace with the times. We might as well require a man to wear a coat which fitted him as a boy; as a civilized society to remain even under the regimen of their barbarous

ancestors. Ladies and Gentlemen: This is scribed on a wall of the Thomas Jefferson Memorial: "In the infancy of our government he realized that laws must change with the times". The ordinance this is proposed tonight is asking a lot of sacrifice of those who smoke. I would hope that for the safety of others in enclosed areas that you could refrain long enough to reach a place where smoking would have no potential harm to others. This is not communism. This is Copperas Cove City Council, a group of concerned people who feel this issue needs to be addressed. No matter what the vote we are still going to be concerned.

Council Member, John Gallen said that the Council had been a very united council, but thought we needed to look closer at a compromise for this ordinance. Council Member Gallen also stated: One of the reasons I ran for City Council was because I do not believe all issues are black and white, there are a lot of gray areas. This city Council will continue to work hard for the citizens on all issues.

Mayor Diaz said that the Council may be divided on this issue, but would move forward. Mayor Diaz stated: I am not against a Smoking ordinance; I am against a No Smoking Ordinance. I think a No Smoking ordinance completely chooses the rights of one individual over another. I did ask the Committee to consider a compromise, but did not receive an appropriate response, and just wanted to state I did request a compromise.

City Manager, Steven Alexander asked when the effective date of the ordinance would be. City Attorney, James Thompson said the consensus of the Smoking Committee was the effective date would be July 1, 2004, and effective date of the ordinance would be well publicized. City Secretary, Pamela Russell said she had prepared the original documents for signatures stating an effective date of July 1, 2004.

Council Member Bud Owsley restated the motion: I make a motion that agenda item I-1 be approved with an effective date of July 1, 2004. Council Member Smith seconded the motion.

Council Member Clayton asked the Committee to review the ordinance after a six month period. Council Member Owsley agreed to review the ordinance after a six month period.

Mayor Diaz asked the City Secretary to poll the City Council:

Council Members voting for the motion: Clayton, Heinze, Harris, Owsley, Smith.

Council Members voting against the motion: Reeves, Gallen

With a vote of 5 for the motion, and 2 against the motion, the motion carried.

The Ordinance caption reads as follows:

ORDINANCE NO. 2004-11

AN ORDINANCE RELATING TO SMOKING IN PUBLIC PLACES, CREATING OFFENSES, AND PROVIDING PENALTIES.

J. STAFF REPORTS – None.

K. REPORTS OF ADVISORY COMMITTEES AND BOARDS – None.

L. ITEMS FOR FUTURE AGENDAS

Council Member John Gallen:

- Carport Issue.
- Deer Issue.

M. EXECUTIVE SESSION

1. Pursuant to §551.072 of the Open Meetings Act. *Tex. Gov't Code*, Council will meet in Executive Session to deliberate the purchase, exchange, lease or value of real property.

Mayor Diaz adjourned the regular session of the meeting at 8:06 p.m.

N. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION

Mayor Diaz reconvened the regular session of the meeting at 8:34 p.m. and stated that Executive Session item M-1 was for information purposes only, and no action would be taken.

O. ADJOURNMENT

There being no further business, Mayor Diaz stated the meeting adjourned at 8:34 p.m.

Bradi D. Diaz, Mayor

ATTEST:

Pamela J. Russell, TRMC, City Secretary

**CITY OF COPPERAS COVE
CITY COUNCIL SPECIAL MEETING MINUTES
MAY 25, 2004 - 6:00 P.M.**

A. CALL TO ORDER

Mayor Bradi D. Diaz called the special meeting of the City Council of the City of Copperas Cove, Texas to order at 6:00 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation and pledge of allegiance was read by Council Member Fred Harris.

C. ROLL CALL

Robert Reeves
Ray Don Clayton
John F. Gallen
Charlotte Heinze
Fred Harris
Bud Owsley
Annabelle Smith

ALSO PRESENT

Steven J. Alexander, City Manager
Pamela J. Russell, City Secretary
James R. Thompson, City Attorney

D. ACTION

1. Consideration and action on Resolution No. 2004-15 – canvassing returns and declaring the results of the General Election for Council Member Position 3, Council Member Position 4, and Council Member Position 5. ***Pamela J. Russell, City Secretary***

Council Member Heinze made a motion to approve Resolution No. 2004-15. Council Member Clayton seconded the motion.

Mary Howell, Election Judge stated it had been a pleasure to work with City Secretary, Pamela Russell, and Deputy City Secretary Angelia Briggs, and that holding the election at City Hall rather than the Civic Center was a good improvement to the election process, as City Hall was far more geographically centralized, and was a much better facility than the Civic Center. Mary Howell then stated the May 15, 2004, City of Copperas Cove, General Election Results as follows:

Here are the results of the City of Copperas Cove General Election held on May 15, 2004, to elect Council Member Position Three, Council Member Position Four, and Council Member Position Five, all for a three year term of office.

| Council Member Position Three | Early Voting | Election Day | Total Votes |
|--------------------------------------|---------------------|---------------------|--------------------|
| John F. Gallen | 329 votes | 332 votes | 661 votes |
| Roger "Odie" O'Dwyer | 95 votes | 91 votes | 186 votes |

Council Member Position Four

| | | | |
|----------------|-----------|-----------|-----------|
| James Stockman | 257 votes | 217 votes | 474 votes |
| Jim Kanzenbach | 195 votes | 241 votes | 436 votes |

Council Member Position Five

| | | | |
|-----------------|-----------|-----------|-----------|
| Buddy Southards | 109 votes | 72 votes | 181 votes |
| Charlie Youngs | 147 votes | 134 votes | 281 votes |
| R.Ray Gatewood | 139 votes | 151 votes | 290 votes |
| Jean Durham | 59 votes | 99 votes | 158 votes |

Total number of ballots cast = 943

Mary Howell, election Judge stated that John F. Gallen was duly elected to Council Member Position Three, James Stockman was duly elected to Council Member Position Four, and that R. Ray Gatewood and Charlie Youngs, having the two highest number of ballots cast for Council Member Position Five, would participate in a Runoff Election on June 19, 2004 to be held at City Hall.

With a unanimous vote, motion carried.

The Resolution caption reads as follows:

RESOLUTION NO. 2004-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING THE CITY MANAGER TO APPLY FOR, ACCEPT, REJECT, ALTER OR TERMINATE A GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FOR ENHANCEMENT OF COMMUNITY EMERGENCY RESPONSE TEAMS (CERTs) THAT PROMOTE COMMUNITY PREPAREDNESS AND FAMILY SAFETY AND ENGAGE CITIZENS IN HOMELAND SECURITY ACTIVITIES.

2. Consideration and action on Resolution No. 2004-16 – calling for a Runoff Election to elect Council Member Position 5; to be held on June 19, 2004; and outlining the election procedures, and the "Order of Election". ***Pamela J. Russell, City Secretary***

Council Member Heinze made a motion to approve Resolution No. 2004-16. Council Member Clayton seconded the motion.

With a unanimous vote, motion carried.

The Resolution caption reads as follows:

RESOLUTION NO. 2004-16

**A RESOLUTION ESTABLISHING PROCEDURES FOR A RUNOFF ELECTION IN
COPPERAS COVE, TEXAS.**

E. ADJOURNMENT

There being no further business, the Special Meeting was adjourned at 6:05 p.m.

Bradi D. Diaz, Mayor Pro Tem

ATTEST:

Pamela J. Russell, TRMC, City Secretary